

**EXEMPTIONS FROM REQUIREMENTS TO
DEDUCT AND WITHHOLD AN INCOME TAX**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig A. Frank

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends the Withholding of Tax part to address exemptions from the requirements to deduct and withhold an income tax.

Highlighted Provisions:

This bill:

- ▶ provides an exemption from the requirement for an employer to deduct and withhold an income tax if certain requirements are met relating to:
 - the number of days an employee performed or is expected to perform services in the state in certain taxable years; and
 - the amount of wages an employee received or is expected to receive in certain taxable years;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

⚡→ [None] This bill has retrospective operation for a taxable year beginning on or after January 1, 2009. ⚡←



Utah Code Sections Affected:

AMENDS:

59-10-403, as renumbered and amended by Laws of Utah 1987, Chapter 2

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **59-10-403** is amended to read:**59-10-403. Exemptions from employer requirement to deduct and withhold a tax -- Rulemaking authority.**

(1) Notwithstanding any other provision of this chapter, an employer is not required to deduct and withhold any tax under this chapter upon a payment of wages to an employee;

(a) if there is in effect with respect to [such] that payment a withholding exemption certificate [(in such form and containing such other information as the commission may prescribe)] furnished to the employer by the employee, certifying that the employee:

[(a)] (i) incurred no liability for [income] a tax imposed under this chapter for [his] the employee's immediately preceding taxable year; and

[(b) anticipates that he will incur no liability for income]

(ii) expects that the employee will not incur liability for a tax imposed under this chapter for [his] the employee's current taxable year[-]; or

(b) if:

(i) the employer expects the employee to perform services in the state for that employer for less than 20 days in the employer's current taxable year;

(ii) the employee performed services in the state for that employer for less than 20 days in the employer's previous taxable year;

(iii) the employer expects that the employee will receive wages derived from or connected with Utah sources from that employer of less than \$50,000 in the employer's current taxable year; and

(iv) the employee received wages derived from or connected with Utah sources from that employer of less than \$50,000 in the employer's previous taxable year.

(3) The commission shall prescribe:

(a) the form for the exemption certificate described in Subsection (1)(a); and

(b) the information required to be reported on the exemption certificate described in

59 Subsection (1)(a).

60 ~~[(2) The commission shall by rule]~~

61 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
62 commission:

63 (a) shall provide for the coordination of the provisions of this section with the
64 provisions of Section 59-10-402[-]; and

65 (b) may provide procedures for determining whether an employee's wages are derived
66 from or connected with Utah sources.

66a **H→ Section 2. Retrospective operation.**

66b **This bill has retrospective operation for a taxable year beginning on or after January 1,**

66c **2009.** ~~←H~~

Legislative Review Note

as of 11-25-08 3:26 PM

Office of Legislative Research and General Counsel